

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

3 JUANA CRUZ, OFELIA)
4 BENAVIDES, JOSE ELIAS)
5 N.G, GABRIELA VELAZQUEZ,)
HELESIO CRUZ, ANGELICA)
CHAVEZ, CONCEPCION PEREZ,)
OLGA PEREZ, MAVRIGO)
SAENZ, JORGE MAOLEON,)
HECTOR SANCHEZ, HECTOR)
GONZALEZ, YESSY PEREZ)
MARTINEZ, MARIA DE)
LOURDES CRUZ, RESENDO)
LIEVANOS, ELIZABETH LARA,)
LUIS ALBERTO ZUNIGIA)
CASTILLO, MIGUEL)
CABALLERO SANCHEZ, CARLOS) CASE NO: 7:23-CV-00343
DANIEL LOPEZ, GILDA)
RIVAS, ARMANDO MORALES DE) JURY DEMANDED
LLANO, LAZARO GARCIA,)
MARIA DE JESUS MEDINA,)
RICHARD ESQUIVEL, RAFAEL)
SANCHEZ, GUILLERMO RUIZ,)
ROSA QUINTANILLA,)
PLAINTIFFS,)
VS.)
DELGAR FOODS, LLC A/K/A)
DELIA'S TAMALES,)
DEFENDANT.)

**ORAL DEPOSITION OF
MIGUEL CABALLERO**

June 26, 2024

ORAL DEPOSITION of MIGUEL CABALLERO,
produced as a witness at the instance of the Defendant,
and duly sworn, was taken in the above-styled and

<p>1 numbered cause on the 26th day of June 2024, from 2 9:02 a.m. to 10:43 a.m., before Priscilla R. Maldonado, 3 CSR, in and for the State of Texas, reported by 4 stenograph, at the Law Offices of Ricardo Gonzalez, 124 5 S. 12th Ave, Edinburg, Texas, pursuant to the Federal 6 Rules of Civil Procedure and the provisions stated on 7 the record or attached.</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 INDEX</p> <p>2 PAGE</p> <p>3 Appearances..... 3</p> <p>4 MIGUEL CABALLERO</p> <p>5 Examination By Mr. Quezada..... 5</p> <p>6 Changes and Signature..... 45</p> <p>7 Reporter's Certification..... 47</p> <p>8</p> <p>9 EXHIBITS</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">10 NUMBER</th> <th style="text-align: left;">DESCRIPTION</th> <th style="text-align: right;">PAGE</th> </tr> </thead> <tbody> <tr> <td style="text-align: left;">11 Exhibit 1</td> <td style="text-align: left;">Declaration</td> <td style="text-align: right;">35</td> </tr> <tr> <td style="text-align: left;">12</td> <td></td> <td></td> </tr> <tr> <td style="text-align: left;">13</td> <td></td> <td></td> </tr> <tr> <td style="text-align: left;">14</td> <td></td> <td></td> </tr> <tr> <td style="text-align: left;">15</td> <td></td> <td></td> </tr> <tr> <td style="text-align: left;">16</td> <td></td> <td></td> </tr> <tr> <td style="text-align: left;">17</td> <td></td> <td></td> </tr> <tr> <td style="text-align: left;">18</td> <td></td> <td></td> </tr> <tr> <td style="text-align: left;">19</td> <td></td> <td></td> </tr> <tr> <td style="text-align: left;">20</td> <td></td> <td></td> </tr> <tr> <td style="text-align: left;">21</td> <td></td> <td></td> </tr> <tr> <td style="text-align: left;">22</td> <td></td> <td></td> </tr> <tr> <td style="text-align: left;">23</td> <td></td> <td></td> </tr> <tr> <td style="text-align: left;">24</td> <td></td> <td></td> </tr> <tr> <td style="text-align: left;">25</td> <td></td> <td></td> </tr> </tbody> </table>	10 NUMBER	DESCRIPTION	PAGE	11 Exhibit 1	Declaration	35	12			13			14			15			16			17			18			19			20			21			22			23			24			25		
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<p>1 APPEARANCES</p> <p>2 COUNSEL FOR THE PLAINTIFFS:</p> <p>3 RICARDO GONZALEZ OXFORD & GONZALEZ 4 124 SOUTH 12TH AVENUE EDINBURG, TEXAS 78539 5 Tel: 956-383-5654 RIC@OXFORDGONZALEZ.COM</p> <p>6 COUNSEL FOR THE DEFENDANT:</p> <p>7 STEPHEN J. QUEZADA OLEGETREE, DEAKINS, NASH, SMOAK & STEWART, P.C. 8 500 DALLAS ST., STE 3000 HOUSTON, TEXAS 77002 9 Tel: 713-655-5757 STEPHEN.QUEZADA@OLEGETREE.COM</p> <p>10 LORENA D. VALLE PORTER HEDGES LLP 11 1000 MAIN STREET, 36TH FLOOR HOUSTON, TEXAS 77002-6341 Tel: 713-226-6000 12 LVALLE@PORTERHEDGES.COM 13 ELIZABETH SANDOVAL CANTU RAMON WORTHINGTON NICOLAS & CANTU, PLLC 14 1506 SOUTH LONE STAR WAY, SUITE 5 EDINBURG, TEXAS 78539 15 Tel: 945-294-4800 ECANTU@RAMONWORTHINGTON.COM</p> <p>16 ALSO PRESENT:</p> <p>17 NICOLAS GIBLER, INTERPRETER ARMANDO MORALES, PLAINTIFF 18 LUIS ZUNIGA, PLAINTIFF ELIAS GUTIERREZ, PLAINTIFF 19 OLGA PEREZ, PLAINTIFF</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 THE REPORTER: We are now on the record. 2 The time is 9:02 a.m., and today is June 26, 2024. 3 This is the deposition of Miguel Caballero, 4 produced at the request of Defendant in Civil Case No. 5 7:23-CV-00343, styled Juana Cruz et. al. versus Delgar 6 Foods, LLC D/B/A Delia's, commencing at 9:02 a.m. 7 My name is Priscilla Maldonado, Certified 8 Court Reporter No. 12025, representing Veritext. 9 Would counsel please state their appearance 10 for the record?</p> <p>11 MR. QUEZADA: Stephen Quezada with the 12 Defendant.</p> <p>13 MR. GONZALEZ: Ricardo Gonzalez, on behalf 14 of the Plaintiffs.</p> <p>15 MIGUEL CABALLERO, 16 having been first duly sworn, testified through the 17 duly-sworn interpreter as follows:</p> <p>18 EXAMINATION</p> <p>19 BY MR. QUEZADA:</p> <p>20 Q. Good morning, Mr. Caballero.</p> <p>21 A. Good morning.</p> <p>22 Q. So today we're using a translator to translate 23 from English to Spanish and Spanish to English. Okay?</p> <p>24 A. Yes. That's fine.</p> <p>25 Q. And so that's so that we can fully understand</p>
<p>Page 3</p>	<p>Page 5</p>

<p>1 Q. And you and I have never spoken about your 2 wages or hours or your work for Delia's and how you were 3 paid, fair?</p> <p>4 A. Yes. No, we haven't. We haven't talked about 5 that at all.</p> <p>6 Q. Okay. What's your current address, please?</p> <p>7 A. 3010 Gold Avenue in Mission.</p> <p>8 Q. And that's Gold like oro?</p> <p>9 A. Yes.</p> <p>10 Q. Have you ever been a party to a lawsuit before?</p> <p>11 A. No.</p> <p>12 Q. What's the highest level of education you've 13 completed?</p> <p>14 A. I studied in Mexico and I got up to middle 15 school, or secondary school.</p> <p>16 Q. Okay. Can you tell the jury why you're suing 17 Delia's?</p> <p>18 A. Because I was fired unjustly.</p> <p>19 Q. Okay. Who told you about this lawsuit?</p> <p>20 A. Fellow workers.</p> <p>21 Q. Which fellow workers?</p> <p>22 A. Well, they're called Ofelia -- I don't know her 23 last name. And Angelica. I don't know her last name 24 either. Only them two.</p> <p>25 Q. Okay. What is your understanding of the</p>	<p>1 A. Yes.</p> <p>2 Q. Anything else that you did with regard to 3 production?</p> <p>4 A. Well, only the -- only the masa, or the dough. 5 But sometimes, I mean, maybe they, at one point or 6 another, they put me in the kitchen.</p> <p>7 Q. Do you recall when that was that you were 8 working in the kitchen, as opposed to working making the 9 masa?</p> <p>10 A. No. I -- I don't recall the date. That's the 11 truth.</p> <p>12 Q. Okay. Fair enough. Your employment with 13 Delia's was continuous from December 5, 2005 to May 2, 14 2023; is that correct? Or did you have any leaves of 15 absence or any times that you left and came back?</p> <p>16 A. No. The entire time I was there. From the 17 moment that I joined until I was dismissed.</p> <p>18 Q. Did you receive any benefits from Delia's? I'm 19 sorry. Let me clarify that question. Did you receive 20 benefits like health insurance, vision insurance, dental 21 insurance, 401(k) from Delia's?</p> <p>22 A. Yes.</p> <p>23 Q. And what were those that you received while 24 working for Delia's?</p> <p>25 A. Only that they gave us health insurance. That</p>
<p>Page 10</p> <p>1 allegations in this lawsuit?</p> <p>2 A. Well, first of all that we were fired or 3 terminated overnight without any -- without any notice.</p> <p>4 Q. Any other reason why you're suing Delia's?</p> <p>5 A. No. Only for that.</p> <p>6 Q. And what's your date of birth, sir?</p> <p>7 A. It's 10/28/73.</p> <p>8 Q. Your employment with Delia's started 9 December 5, 2005. Does that sound about right?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. And you were continuously employed by 12 Delia's until your employment ended on May 2, 2023?</p> <p>13 A. Yes.</p> <p>14 Q. And do you understand the reason why your 15 employment was terminated?</p> <p>16 A. Because of papers. Just -- just papers. I 17 didn't have any.</p> <p>18 Q. Okay. And did you understand that that was 19 based on an instruction from the government?</p> <p>20 A. No.</p> <p>21 Q. Okay. Your position with Delia's was 22 production worker, correct?</p> <p>23 A. Yes.</p> <p>24 Q. And more specifically, you prepared masa the 25 majority of your time?</p>	<p>Page 12</p> <p>1 was about it. I don't think I ever needed anything for 2 my eyes or for dentistry either.</p> <p>3 Q. And the company paid -- Delia's paid for those 4 health insurance benefits, correct?</p> <p>5 A. Yes.</p> <p>6 Q. Were you ever suspended or disciplined while 7 working for Delia's?</p> <p>8 A. No.</p> <p>9 Q. At any time, did you take any regular 10 vacations, like for summer or spring breaks or anything 11 like that during your employment?</p> <p>12 A. Yes. Yes over the vacations.</p> <p>13 Q. And what were -- what were those normal 14 vacations that you took?</p> <p>15 A. They gave us two weeks a year. So I took one 16 week before the middle of the year. And another week 17 after the half of the year.</p> <p>18 Q. And those were two weeks paid vacation, 19 correct?</p> <p>20 A. Yes.</p> <p>21 Q. And while working for Delia's, you're -- you 22 were able to take the vacations -- the paid vacations 23 that you wanted to take?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. And you were paid an hourly rate while</p>

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<p>1 working for Delia's, correct?</p> <p>2 A. Only since 2007 and on. Because when I just</p> <p>3 came in, they paid us by the shift.</p> <p>4 Q. Okay. Let me -- let me ask you a better</p> <p>5 question. From 2020 until your employment ended, you</p> <p>6 were paid an hourly rate, correct?</p> <p>7 A. No. It was before.</p> <p>8 Q. Okay. So I believe what you're saying then,</p> <p>9 from 2017 until your employment ended, you were paid an</p> <p>10 hourly rate -- sometime in 2017.</p> <p>11 A. Well, that's when they started paying me by</p> <p>12 check, because before that they paid me in cash.</p> <p>13 Q. Understood. But what I'm trying to clarify is</p> <p>14 when you started receiving payment by check, and, I</p> <p>15 believe, based on what you've described, that sometime</p> <p>16 in 2017, correct?</p> <p>17 A. Well, I really -- I don't remember, but it was</p> <p>18 before. It could have been 2008 to 2009. I don't</p> <p>19 remember. But that's -- that's when they started paying</p> <p>20 us by the hour.</p> <p>21 Q. Okay. Okay. When you were last working at</p> <p>22 Delia's, in May of 2023, you were being paid an hourly</p> <p>23 rate, correct?</p> <p>24 A. Yes.</p> <p>25 Q. And what was that, your last hourly rate?</p>	<p>1 A. No.</p> <p>2 Q. No, you did not share it?</p> <p>3 A. No.</p> <p>4 Q. Okay. And you understood that when you were</p> <p>5 working for Delia's you would punch in with your finger</p> <p>6 or your thumb or the password?</p> <p>7 A. Yes.</p> <p>8 Q. And you always did that while you were working</p> <p>9 for Delia's?</p> <p>10 A. Yes. As of the time when they installed the</p> <p>11 computer, yes.</p> <p>12 Q. And you knew that you would punch in before you</p> <p>13 start working, correct?</p> <p>14 A. Yes.</p> <p>15 Q. And that's what you did each day you went to go</p> <p>16 work for Delia's?</p> <p>17 A. Yes.</p> <p>18 Q. And you understood that when you stopped</p> <p>19 working, you should punch out and that was the end of</p> <p>20 work, right?</p> <p>21 A. Yes.</p> <p>22 Q. And that's what you did every day that you</p> <p>23 worked at Delia's, correct?</p> <p>24 A. Yes.</p> <p>25 Q. And you understood that when you took lunch or</p>
<p>Page 14</p> <p>1 A. 11.25.</p> <p>2 Q. And from the time you started being paid by</p> <p>3 check, whatever that time was, you started receiving an</p> <p>4 hourly rate for your work, correct?</p> <p>5 A. Yes. By the hour. Yes.</p> <p>6 Q. And the only position that you held while</p> <p>7 working for Delia's was that of production, correct?</p> <p>8 A. Yes. Except for the time when I was put on --</p> <p>9 in the -- taken away from that to be put in the kitchen.</p> <p>10 Q. Got it. Who was your supervisor?</p> <p>11 A. Luis Briones.</p> <p>12 Q. So I'd like to ask you about how you were paid</p> <p>13 by check. Okay?</p> <p>14 A. Yes.</p> <p>15 Q. You were aware that there was a timekeeping</p> <p>16 system at the restaurant, correct?</p> <p>17 A. Yes.</p> <p>18 Q. And you clocked in using your finger or thumb?</p> <p>19 A. Or with a key code.</p> <p>20 Q. Or with a password?</p> <p>21 A. Yes. A password.</p> <p>22 Q. Okay. And that was a password that was unique</p> <p>23 to you?</p> <p>24 A. Yes.</p> <p>25 Q. And you never shared it with anyone?</p>	<p>Page 16</p> <p>1 certain breaks, that you also needed to clock out and</p> <p>2 clock back in, correct?</p> <p>3 A. Yes.</p> <p>4 Q. And that's what you did everyday you went to</p> <p>5 work for Delia's, right?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. Was Luis Briones on site at the</p> <p>8 restaurant with you?</p> <p>9 A. Yes.</p> <p>10 Q. About how many other people would Mr. Briones</p> <p>11 supervise?</p> <p>12 A. The entire line and the production.</p> <p>13 Q. About how many people was that?</p> <p>14 A. I would say that more than 30.</p> <p>15 Q. Okay. In your position as a production worker,</p> <p>16 you were responsible for helping set up the equipment</p> <p>17 used to make the masa?</p> <p>18 A. Only the ingredients.</p> <p>19 Q. Okay. So not the equipment?</p> <p>20 A. Well, it was only one machine. You didn't have</p> <p>21 to prepare anything in it.</p> <p>22 Q. Just turn it on and it went?</p> <p>23 A. Yes.</p> <p>24 Q. Fair enough. So you would gather the spices, I</p> <p>25 take it?</p>

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<p>1 A. Yes.</p> <p>2 Q. And the masa itself, was it already like</p> <p>3 pre-made masa? Or was it the ground corn and you'd have</p> <p>4 to add water and do all that?</p> <p>5 A. The masa was already ready. It was already</p> <p>6 prepared.</p> <p>7 Q. So you were just spicing it?</p> <p>8 A. Yes.</p> <p>9 Q. And what -- what would you do after you put the</p> <p>10 spices?</p> <p>11 A. Well, it was done in parts. There was a</p> <p>12 process. It was not just dumping things, you know?</p> <p>13 Q. I see. Okay. Did you have to prepare any of</p> <p>14 the meats?</p> <p>15 A. No. Not the meat.</p> <p>16 Q. Did you actually make any tamales?</p> <p>17 A. No.</p> <p>18 Q. So you were the masa guy?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Would you set up or clean up before</p> <p>21 or -- before you started making the masa or after you</p> <p>22 started making the masa?</p> <p>23 A. When I arrived, no. Because my fellow worker</p> <p>24 was already there doing it. So what I did was just took</p> <p>25 over and continued. But when I was done at the end,</p>	<p>1 Q. Okay. Thank you. And all the duties we've</p> <p>2 been discussing were duties that you accomplished</p> <p>3 between the time that you clocked in for work and</p> <p>4 clocked out at the end of the day, correct?</p> <p>5 A. Yes.</p> <p>6 Q. Were you aware of any policies that Delia's had</p> <p>7 while you working there?</p> <p>8 A. No.</p> <p>9 Q. Okay. One more question about the duties that</p> <p>10 I forgot to ask you, sir. Did -- did your duties change</p> <p>11 over time or were they what we just discussed the entire</p> <p>12 time you worked for Delia's, except for the time you</p> <p>13 worked in the kitchen?</p> <p>14 A. Well, only the fact that when I actually</p> <p>15 started there, the masa was done by hand.</p> <p>16 Q. Okay. And -- and would you say that you -- and</p> <p>17 would you say that your experience was typical, in terms</p> <p>18 of punching in, starting work, punching out at the end</p> <p>19 of work, it was typical for you as it was the other</p> <p>20 employees?</p> <p>21 MR. GONZALEZ: Objection; form.</p> <p>22 A. Yes.</p> <p>23 Q. (BY MR. QUEZADA) And that's true for the folks</p> <p>24 sitting in the room today with us, correct? Except for</p> <p>25 Mr. Morales who was not hourly?</p>
<p style="text-align: right;">Page 18</p> <p>1 then I would have to clean up.</p> <p>2 Q. Okay. Were there any other duties that you had</p> <p>3 that we have not discussed?</p> <p>4 A. No. That's it. Only the masa.</p> <p>5 Q. And the preparation of the masa?</p> <p>6 A. Except that if there was -- if we didn't have</p> <p>7 any people, then they would have me take away the tamale</p> <p>8 baskets.</p> <p>9 Q. Okay. Any other duties? Whether they were</p> <p>10 everyday duties or duties that weren't part of your</p> <p>11 normal routine that you did?</p> <p>12 A. No.</p> <p>13 Q. And you understand I'm also asking about</p> <p>14 cleaning, setting up, disassembling anything that you</p> <p>15 were using at the end of the day or at the beginning of</p> <p>16 the day?</p> <p>17 A. Well, sometimes we did -- sometimes we did do</p> <p>18 the cleaning.</p> <p>19 Q. Okay. Any other duties then, that I have not</p> <p>20 covered?</p> <p>21 A. No.</p> <p>22 Q. And you did all those duties?</p> <p>23 A. Unless perhaps I needed to get a pallet of masa</p> <p>24 from the cooler from -- then I would get the fork lift</p> <p>25 and bring it out.</p>	<p>1 MR. GONZALEZ: Objection; form.</p> <p>2 A. No. They were -- they were salary.</p> <p>3 Q. (BY MR. QUEZADA) Or do you know?</p> <p>4 A. Not much.</p> <p>5 Q. Okay. Fair enough. So when you were paid by</p> <p>6 check, you were paid weekly, correct?</p> <p>7 A. Yes.</p> <p>8 Q. And when you clocked in and clocked out, you</p> <p>9 were able to see, on the screen for the timekeeping</p> <p>10 machine, the time in and the time out and the hours</p> <p>11 worked, correct?</p> <p>12 A. No. I couldn't.</p> <p>13 Q. Okay.</p> <p>14 A. No. I couldn't see that. No. I mean, I just</p> <p>15 came in and punched in. I really didn't --</p> <p>16 Q. Okay. I'm -- I'm just asking about what you --</p> <p>17 what you were able to see on the screen, or what you did</p> <p>18 see on the screen.</p> <p>19 A. No. I mean, just -- just my name. I mean, I</p> <p>20 would punch in, I'd see my name, and I'd get to work.</p> <p>21 Q. Okay. And you punched in only for yourself --</p> <p>22 excuse me. You punched in and punched out only for</p> <p>23 yourself, correct?</p> <p>24 A. Yes.</p> <p>25 Q. And nobody else punched in or punched out for</p>

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6 (Pages 18 - 21)

<p>1 you, correct?</p> <p>2 A. No.</p> <p>3 Q. And nobody altered your time, correct?</p> <p>4 A. Only when I forgot to punch in. And I just</p> <p>5 went in and I would talk to the supervisors or the</p> <p>6 managers and asked them to punch in the time that I had</p> <p>7 come in.</p> <p>8 Q. Fair. And you know you were able to do that,</p> <p>9 while working at Delia's, right?</p> <p>10 A. Yes. I would go to them and say, you know, I</p> <p>11 forgot to punch in. Would you please fix my entry time?</p> <p>12 Q. And they fixed it, correct?</p> <p>13 A. Yes.</p> <p>14 Q. There were no problems?</p> <p>15 A. No.</p> <p>16 Q. And is that the same for if you forgot to punch</p> <p>17 out?</p> <p>18 A. I'm sorry. I didn't understand.</p> <p>19 Q. Just the way you described the process of</p> <p>20 correcting a forgotten punch in, if you forgot to also</p> <p>21 punch out, you could follow that same process to correct</p> <p>22 it?</p> <p>23 A. Yes. Yes. There were occasions in which I</p> <p>24 forgot.</p> <p>25 Q. And that got fixed for you?</p>	Page 22	Page 24
<p>1 A. Yes.</p> <p>2 Q. So every time there was a missed punch or you</p> <p>3 forgot to punch, it was corrected to your satisfaction,</p> <p>4 right?</p> <p>5 A. Yes.</p> <p>6 Q. The process that you just described of</p> <p>7 correcting a forgotten punch in or correcting a</p> <p>8 forgotten punch out, how did you learn about that</p> <p>9 process?</p> <p>10 A. Well, when I arrived and I tried to punch in</p> <p>11 one day, it would indicate that I hadn't punched the</p> <p>12 earlier day.</p> <p>13 Q. And when you say "it would indicate", you mean</p> <p>14 the timekeeping system?</p> <p>15 A. Yes.</p> <p>16 Q. Do you know what the name of the timekeeping</p> <p>17 system was?</p> <p>18 A. No.</p> <p>19 Q. Does -- does the name Focus ring a bell?</p> <p>20 A. Oh, yes. Yes. Yes.</p> <p>21 Q. That was the timekeeping system you used?</p> <p>22 A. Yes.</p> <p>23 Q. And you understood how to use it? You were</p> <p>24 able to use it?</p> <p>25 A. Yes.</p>	<p>1 true?</p> <p>2 A. Okay. Well, I never complained. But there was</p> <p>3 some times when I forgot to punch in or when Don Luis</p> <p>4 would actually right down the times, I felt that they</p> <p>5 were giving me fewer hours.</p> <p>6 Q. Okay. Sitting here today, can you tell the</p> <p>7 jury what pay periods that issue occurred?</p> <p>8 A. Well, no. Actually, that was when they were</p> <p>9 doing -- before the system, when they were doing it by</p> <p>10 hand. He would have a list of when we punched in, came</p> <p>11 out, and so on. And sometimes I realized or felt that</p> <p>12 my hours, according to my records, didn't match the</p> <p>13 hours that he had. So I would tell him and he said, oh,</p> <p>14 I'm sorry. Or he would correct it and he would say,</p> <p>15 look, I'm gonna add them to you -- for next week. And</p> <p>16 then if he did -- well, I never complained. I just, you</p> <p>17 know, told him about it.</p> <p>18 Q. And then it still got fixed, correct?</p> <p>19 A. Yes.</p> <p>20 Q. And that was before the timekeeping system was</p> <p>21 put into place in 2017?</p> <p>22 A. Yes.</p> <p>23 Q. Was Luis Briones your supervisor the entire</p> <p>24 time you worked at Delia's?</p> <p>25 A. No. Well, no, not all the time. I -- I don't</p>	Page 25

7 (Pages 22 - 25)

1 recall exactly the date when he arrived, but he came in
 2 at around maybe 2010 or 2012, perhaps. I don't remember
 3 when. But then as of the time he arrived, then he was
 4 my supervisor for the entire time.

5 Q. Okay. And Mr. Briones nor any other person at
 6 Delia's instructed you to not record your time
 7 accurately, true?

8 A. Yes.

9 Q. Yes, that's correct?

10 A. Yes.

11 Q. Okay. Did you keep any notes or logs of hours
 12 worked?

13 A. Well, at the beginning, no. But then when I
 14 started feeling that I was not getting quite a -- the
 15 number of hours, then another manager told me, no, you
 16 know you should take down your -- you should take down
 17 your hours, write them down someplace, because sometimes
 18 it won't match. And if they don't match, then you have
 19 something to tell him about.

20 Q. And that was before the timekeeping system was
 21 put into place in 2017, correct?

22 A. Yes.

23 Q. And when Delia's put in the timekeeping system
 24 in 2017, you started receiving over-time pay, correct?

25 A. Yes.

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1 employment was May 2, 2023, correct?

2 A. Yes.

3 Q. You worked the morning shift; is that correct?

4 A. No.

5 Q. You worked the evening shift?

6 A. Yes.

7 Q. And what was that evening shift?

8 A. Well, there were several -- several hours for
 9 the shift. Sometimes it was from 10 to 10. Sometimes
 10 it was 11 to 11. Sometimes it was from 12 to 12, from
 11 12 noon to 12 midnight or 12:00 a.m. And then there --
 12 unless there wasn't a lot of work at those times, then I
 13 would probably leave a little earlier.

14 Q. Okay. And you understand I'm just asking about
 15 just the general shift, not what you actually punched in
 16 and punched out, right?

17 A. Well, see, the thing is I worked there for 18
 18 years. So at first, I was only in the morning. Then,
 19 they bought the machine and they started doing double
 20 shifts, I mean, so then I was in the morning, and
 21 sometimes in the afternoon. So at the end, I was only
 22 working evenings.

23 Q. Got it. Did you have any other jobs for any
 24 other employers while you were working for Delia's?

25 A. No.

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1 Q. And that was for hours worked over 40 in a work
 2 week, correct?

3 A. Yes. Yes.

4 Q. And when you worked over 40 hours in a work
 5 week, you were paid time and a half for those hours,
 6 correct?

7 A. As of that date, yes.

8 Q. As of the date of the timekeeping system,
 9 correct?

10 A. Well, yes. At the beginning, we were paid by
 11 the shift. But then when they started paying us by the
 12 hour, I remember they used to pay us all the same number
 13 of hours -- or whatever hours we worked, they paid us at
 14 the same rate.

15 Q. So let me ask you a little bit about that.
 16 What you described was that before the timekeeping
 17 system was put into place in 2017?

18 A. Yes.

19 Q. Okay. So let's talk about 2017 forward. Okay?

20 A. Okay.

21 Q. From 2017, when the timekeeping system was put
 22 into place, through the end of your employment, you
 23 received overtime pay, correct?

24 A. Yes.

25 Q. Okay. And, again, that was -- your last day of

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1 Q. I may have already asked you, but I don't
 2 remember, so apologies if I'm asking you again.

3 A. Okay.

4 Q. Were you ever written up or suspended or
 5 anything like that? Disciplined in any way while at
 6 Delia's?

7 A. Only once when I was working in the kitchen. I
 8 was -- I came in late, so they gave me a -- I guess, a
 9 tardiness slip or something. But other than that,
 10 nothing.

11 Q. Like a warning for being tardy?

12 A. Yes.

13 Q. And you mentioned that you worked at Delia's
 14 for 18 years, correct?

15 A. Yes.

16 Q. And that was the only time you received any
 17 sort of warning or anything like that?

18 A. Yes.

19 Q. So you felt comfortable working at Delia's?

20 A. Yes.

21 Q. It was a good job?

22 A. Oh, yes.

23 Q. You were treated with respect while working at
 24 Delia's?

25 A. Well, you could say yes. I mean, we did have

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8 (Pages 26 - 29)

1 I, MIGUEL CABALLERO, have read the foregoing
 2 deposition and hereby affix my signature that same is
 3 true and correct, except as noted above.
 4
 5 _____
 6 MIGUEL CABALLERO
 7
 8 THE STATE OF TEXAS)
 9 COUNTY OF _____)
 10 Before me, _____, on _____, on
 11 this day personally appeared MIGUEL CABALLERO, known to
 12 me (or proved to me under oath or through _____)(description of identity card or
 13 other document) to be the person whose name is
 14 subscribed to the foregoing instrument and acknowledged
 15 to me that they executed the same for the purposes and
 16 consideration therein expressed.
 17
 18 Given under my hand and seal of
 19 office this _____ day of _____, 2024.
 20
 21
 22 Notary Public in and for the State of Texas
 23
 24
 25 Job No. HOU6734283

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1 I further certify that pursuant to
 2 FRCP Rule 30(f)(1) that the signature of the deponent:
 3 _____ was requested by the deponent or a
 4 party before the completion of the deposition and that
 5 the signature is to be before any notary public and
 6 returned within 30 days from date of receipt of the
 7 transcript. If returned, the attached Changes and
 8 Signature Page contains any changes and the reasons
 9 therefor;
 10 _____ was not requested by the deponent
 11 or a party before the completion of the deposition.
 12 I further certify that I am neither
 13 counsel for, related to, nor employed by any of the
 14 parties or attorney in the action in which this
 15 proceeding was taken, and further that I am not
 16 financially or otherwise interested in the outcome of
 17 the action.
 18 Certified to by me this July 11, 2024.
 19
 20
 21
 22
 23
 24
 25

Priscilla Maldonado, CRN 12025

Expiration Date: 06-30-2025

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Fort Worth, Texas 76102

817-336-3042

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1 IN THE UNITED STATES DISTRICT COURT
 2 FOR THE SOUTHERN DISTRICT OF TEXAS
 3 MCALLEN DIVISION
 4 JUANA CRUZ, OFELIA)
 5 BENAVIDES, JOSE ELIAS)
 6 N.G. GABRIELA VELAZQUEZ,)
 7 HELEOSIO CRUZ, ANGELICA)
 8 CHAVEZ, CONCEPCION PEREZ,)
 9 OLGA PEREZ, MAVRIGO)
 10 SAENZ, JORGE MAOLEON,)
 11 HECTOR SANCHEZ, HECTOR)
 12 GONZALEZ, YESSY PEREZ)
 13 MARTINEZ, MARIA DE)
 14 LOURDES CRUZ, RESENDO)
 15 LIEVANOS, ELIZABETH LARA,)
 16 LUIS ALBERTO ZUNIGIA)
 17 CASTILLO, MIGUEL)
 18 CABALLERO SANCHEZ, CARLOS) CASE NO: 7:23-CV-00343
 19 DANIEL LOPEZ, GILDA)
 20 RIVAS, ARMANDO MORALES DE) JURY DEMANDED
 21 LLANO, LAZARO GARCIA,)
 22 MARIA DE JESUS MEDINA,)
 23 RICHARD ESQUIVEL, RAFAEL)
 24 SANCHEZ, GUILLERMO RUIZ,)
 25 ROSA QUINTANILLA,)
 14) PLAINTIFFS,)
 15) VS.)
 16) DELGAR FOODS, LLC A/K/A)
 17) DELIAS TAMALES,)
 18) DEFENDANT.)
 19 *****
 20 REPORTER'S CERTIFICATION
 21 DEPOSITION OF MIGUEL CABALLERO
 June 26, 2024
 22 I, Priscilla Maldonado, Certified Shorthand
 23 Reporter in and for the State of Texas, hereby certify
 24 to the following:
 25 That the witness, MIGUEL CABALLERO,
 26 was duly sworn by the officer and that the transcript of
 27 the oral deposition is a true record of the testimony
 28 given by the witness;

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1 RICARDO GONZALEZ
 2 RIC@OXFORDGONZALEZ.COM
 3 July 11, 2024
 4 RE: Cruz, Juana, Et Al v. Delgar Foods LLC, Et Al.
 5 6/26/2024, Miguel Caballero (#6734283)
 6 The above-referenced transcript is available for
 7 review.
 8 Within the applicable timeframe, the witness should
 9 read the testimony to verify its accuracy. If there are
 10 any changes, the witness should note those with the
 11 reason, on the attached Errata Sheet.
 12 The witness should sign the Acknowledgment of
 13 Deponent and Errata and return to the deposing attorney.
 14 Copies should be sent to all counsel, and to Veritext at
 15 errata-tx@veritext.com.
 16 Return completed errata within 30 days from
 17 receipt of testimony.
 18 If the witness fails to do so within the time
 19 allotted, the transcript may be used as if signed.
 20
 21
 22 Yours,
 23 Veritext Legal Solutions
 24
 25

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13 (Pages 46 - 49)